

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/10/09 has been entered.

### ***Response to Arguments***

2. Due to the applicant's amendments to the claims, the previous rejections are rendered moot.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 12-15, 17-23, 25 rejected under 35 U.S.C. 103(a) as being unpatentable over Pacella in view of DE 20007044 ('044) . Pacella discloses a dishwasher comprising a bottom, top, and walls that collectively form an interior of the washing machine. Figure 7 shows a spraying device comprising a channel 148 to guide washing liquid that is tubular and has two open ends. The cross-section is rectangular. The channel cover is fixably mounted. The channel is integrated into at least the bottom of the

interior 126. Openings 152 function as nozzles to spray fluid into the interior. The device includes a pump 140, which reads on mechanical means to control pressure. The device is believed to be capable of operating at various pressures, a feature which is regarded as intended use of the apparatus. The cross sections of 148 are rectangular with rounded edges. The cover plate is fixed by means such as screws, thus it can be considered manually releasable and fixably secured. Pacella shows the upper portion of the channel being recessed from the bottom of the wash container by about a centimeter (figure 7). Examiner finds little novelty in the limitation "substantially continuous planar surface" and believes that a simple rearrangement of parts would be obvious to one of ordinary skill. Furthermore, washing systems are known in which nozzle holes are integrated at least into the bottom area of a washing container, such nozzles accessible by spray channels. '044 teaches a washing system where outlet nozzles 4 are integrated with the bottom and wall areas of a washing machine. It would have been obvious to one of ordinary skill at the time of invention to modify the base portion of Pacella with nozzles, as taught by '044, in order to deliver fluid to the articles to be washed thus arriving at the claimed invention. In regards to claims 19-20, it is also believed to be obvious to one of ordinary skill to locate the manifold cover of Pacella's channel in the same plane as the bottom of the wash tank, as '044 teaches that it is known to have nozzles flush with the bottom surface of the washing machine.

5. In regards to claims 17-18, the shape of the cross-section is not considered to be a patentably distinct invention. Changes in shape or form have been held to be obvious. *In re Dailey* 149 USPQ 47, 50 (CCPA 1966).

6. In regards to claims 23 and 25, the location of the spray channels along a multi-planar surface is considered to be a rearrangement that can be optimized through routine experimentation, as it only requires a relocation of the previously disclosed parts of Pacella and '044. Absent a showing of unexpected results, said modification is believed to be well within the skill of one practicing the art. Rearrangement of parts was held to have been obvious. *In re Japikse* 86 USPQ 70 (CCPA 1955).

7. Claims 24, 26-27 rejected under 35 U.S.C. 103(a) as being unpatentable over Pacella in view of DE 20007044 ('044) and further in view of Miliotis. Pacella and '044 do not teach U-shaped channels. Miliotis teaches manually releasable U-shaped channels with legs that fit into grooves (figures 4 and 5). It would have been obvious at the time of invention to modify Pacella in view of '044, as stated above, and further use U-shaped manifolds located in the spray channel in order to deliver fluid to the dishes to be washed. In regards to claims 24, the bending of the free ends is not considered to be a patentably distinct feature. It is common in the art to bend free ends of objects that may be sharp in order to prevent the exposure of a sharp end to the user. Thus, the inclusion of a bent, rounded, or soft free end is considered to be well within the skill of one practicing the art for its obvious benefits. Absent a showing of unexpected results, such a modification is considered to be obvious.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON HECKERT whose telephone number is (571)272-2702. The examiner can normally be reached on Mon. to Friday, 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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